

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL NO. 3:06cv00394**

PATRICK COWELL, and wife,)
TERRIE COWELL)

Plaintiffs,)

vs.)

GASTON COUNTY, FIRST)
GASTON BANK OF NORTH)
CAROLINA, COUNTRYWIDE)
HOME LOANS, INC., and ZURICH)
INSURANCE COMPANY, d/b/a)
MARYLAND CASUALTY)
COMPANY, NORTHERN)
INSURANCE COMPANY OF NEW)
YORK, ZURICH GROUP)
ATLANTA, and/or PUBLIC RISK,)
INC.,)

Defendants.)

ORDER

THIS MATTER is before the Court on Plaintiffs’ Motion to Remand (Doc. No. 8), filed October 13, 2006; Defendant Gaston County’s Memorandum in Opposition (Doc. No. 18), filed October 30, 2006; and the Memorandum and Recommendation (“M&R”) of Magistrate Judge Carl Horn, III (Doc. No. 20), filed November 15, 2006. The M&R recommended Plaintiffs’ motion be granted and that this matter be remanded to Gaston County Superior Court. The time for filing objections has since passed, and neither Plaintiffs nor Defendants filed objections in this matter. For the reasons stated below, the Court GRANTS Plaintiffs’ Motion to Remand and orders this case be REMANDED to Superior Court in Gaston County.

I. STANDARD OF REVIEW

Pursuant to 28 U.S.C. § 636(b)(1)(B), United States Magistrate Judge Carl Horn III was designated to consider and recommend disposition of Plaintiffs' Motion to Remand. The Federal Magistrate Act provides that "a district court shall make a *de novo* determination of those portions of the report or specific proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1); Camby v. Davis, 718 F.2d 198, 200 (4th Cir. 1983). "By contrast, in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). As stated above, no party has filed any objections in this matter.

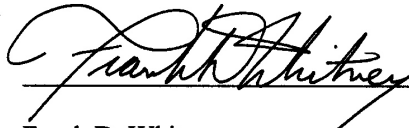
II. CONCLUSION

Accordingly, after a careful review of the record in this case, the Court finds that the Magistrate Judge's findings of fact are supported by the record and the conclusions of law are consistent with and supported by current case law. See Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982) (holding that only a careful review is required in considering a memorandum and recommendation absent specific objections). Thus, the Court hereby accepts the M&R of Magistrate Judge Horn and adopts it as the final decision of this Court for all purposes relating to this case.¹

¹The Court notes that Wright, Miller & Cooper, Federal Practice and Procedure, § 3731 further supports the M&R's holding that all defendants must consent to the removal of an action.

IT IS, THEREFORE, ORDERED that Plaintiffs' Motion to Remand is **GRANTED**, and this matter is **REMANDED** to the Superior Court of Gaston County.

Signed: December 7, 2006



Frank D. Whitney
United States District Judge

